

More recently, during her tenure at the Leadership Conference on Civil and Human Rights, Ms. Gupta led initiatives on voting rights, criminal justice reform, and the census.

Ms. Gupta began her career as a civil rights lawyer with the NAACP Legal Defense and Educational Fund. One of the first matters she worked on as a young attorney involved nearly 40 wrongfully convicted individuals in the small town of Tulia, TX. The individuals who had been wrongfully convicted were almost all African Americans, and they had been convicted of drug charges based solely on the false testimony of one corrupt, blatantly racist undercover police officer.

How about walking into that situation, trying to resolve that situation. She did. Despite being completely innocent, these individuals were sitting in jail, and their appeals had been rejected. Vanita Gupta took their case anyway.

As a result of her work, not only were these individuals exonerated, but they received pardons from the Republican Governor of Texas, Rick Perry, and Texas eventually paid out a \$6 million settlement. That is nothing short of a political miracle, and she achieved it by hard work, being smart as can be, and reaching out to both sides to find some area of agreement.

Ms. Gupta's commitment to ensure the equal protection of the law has been praised by Republicans and Democrats alike. Michael Chertoff, former Secretary of Homeland Security under President George Bush, said about Ms. Vanita Gupta in a letter to the Senate. "She is a relentless advocate for fairness and the rule of law."

How would you like to have that as the lead sentence of your legal biography: "a relentless advocate for fairness and the rule of law." How would we like to have a person like that in this administration, in the Department of Justice? Obviously, we would jump at the chance.

She is the right person at the right time. She will bring experience, dedication, and a nonpartisan approach to the role of Associate Attorney General, and I urge my colleagues to support her nomination.

Now, if you heard what I just said about Vanita Gupta, you might think: Why was this a tie vote in the Senate Judiciary Committee? First, it is an evenly divided committee: 11 Democrats, 11 Republicans. And there are a lot of things going on, on both sides of the table, when it comes to the final vote on nominees like this.

Several Republicans told me they might be leaning in her direction but they couldn't vote for her in the committee. I hope they will reconsider when it comes to the floor.

And there was another thing going on too. Rightwing groups were spending millions—millions—of dollars on television in Washington trying to attack the reputation and character of Vanita Gupta.

I think I have made it clear. Vanita Gupta is highly qualified and historic, with broad support from law enforcement and civil rights organizations, advocates across the political spectrum. She, clearly, on the merits, will be an outstanding Associate Attorney General.

But every step of the way, her detractors have tried to delay and obstruct her nomination. We saw that in our Judiciary Committee markup on March 25. I allowed committee Republicans to speak for 94 minutes about Ms. Gupta's nomination at markup. One Senator from Texas spoke for 29 minutes himself. I didn't cut him off.

But someone on the Republican side made the decision to invoke the 2-hour rule, a Senate rule that says that a committee cannot operate more than 2 hours after the Senate comes into session, to try to cut off the markup for the vote even before the vote.

I had received assurances earlier that the 2-hour rule would not be invoked, but at 11:55, with barely 5 minutes to spare, I was told the other side had changed their mind. Just as the previous two chairs of the committee, Senators Graham and Grassley, had done in the past, I ended debate, notwithstanding committee rule IV, and called for a vote on the nomination.

I won't go into a debate over committee rule IV other than to say it is a doomsday filibuster. Any Senator can object to the business in the Senate Judiciary Committee and virtually stop all proceedings indefinitely. There is no recourse.

I gave Republicans ample time to make their arguments in the committee. I was prepared to give them even more time until the 2-hour rule was invoked. But someone on the other side decided to force my hand. I had to act quickly.

I told Republicans in writing in a March 24 letter that we would hold a vote on Ms. Gupta's nomination the next day, and I meant it. In the future, I would be happy to limit the number of minutes that Senators can speak in order for all Senators to have an opportunity, but at this moment in time, we have to accept the obvious.

Vanita Gupta has been subjected to blatantly false attacks from many rightwingers and conservative, dark money groups. Republicans have falsely claimed that she supports defunding the police. Be prepared. You are going to hear this mantra again and again.

In reality, Gupta has the support of virtually every major law enforcement organization in America. Republicans have made false claims about Gupta's position on drugs. For example, the senior Senator from Texas alleged that Gupta previously advocated, "All drugs should be legal." In reality, Vanita Gupta has never advocated that all drugs should be legal. As the senior Senator from Texas knows, Gupta did write, 9 years ago, that she favored decriminalizing the "simple possession" of "small amounts" of marijuana and other drugs.

Take a look at what we have done with sentencing and drug crimes in America, even under the Trump administration.

At her hearing, Ms. Gupta was completely forthright in explaining that she changed her mind over the years in terms of decriminalizing drug possession, due in part to a family experience with opioid addiction.

Republicans have criticized Ms. Gupta's past statements on Twitter, despite the fact that they strongly supported President Donald Trump and many of his nominees, many of whom were just White males, who made such harsh statements in speeches and social media posts that they were legendary.

Republicans have argued that Gupta is radical and dangerous. In reality, Vanita Gupta has a career-long record of working closely with conservatives, business leaders and community leaders and law enforcement. That is why she has the support of so many prominent Republican leaders now.

I am looking forward to voting for her and to watching her serve in the Department of Justice. She will follow the trail that she set in her legal career, looking for solutions, bringing us together. Can you think of a moment in history in this country when we needed that more? I can't.

Every day we have these conflicting stories coming at us, from the courts in Minnesota on a question of George Floyd and the culpability for his death to a situation here in the Capitol, where we are honoring law enforcement when Officer Billy Evans of the Capitol Hill Police gave his life serving this country.

We are torn trying to find the right combination for law enforcement that is sensible and principled and humane. We need someone like Vanita Gupta at the table in the Department of Justice, leading. I hope her critics will have second thoughts.

Give this outstanding woman an opportunity to serve her country even more than she has in the past.

I yield the floor.

The PRESIDING OFFICER (Mr. PETERS). The Senator from Utah.

MOTION TO DISCHARGE

Mr. GRASSLEY. Mr. President, right now, I just want to speak about the motion to discharge as opposed to whether people should vote for or against Gupta.

I am opposed to this effort to discharge Gupta from the Judiciary Committee. In fact, it is not properly in order. In theory, we are moving this nomination because it failed in Committee by an even, tie vote. But that vote should never have been called, and it was improper when it was.

Under the committee rules, members have a right to unlimited debate. This can only be stopped either by a bipartisan vote to end debate under the rules or by a vote of the majority of the committee to set a time certain to vote under precedent. Because Republicans at Ms. Gupta's markup wanted

to talk, there couldn't have been a bipartisan vote to end debate. In fact, some, like my colleagues from North Carolina, didn't have a chance to speak and were still waiting their turn. And because the Democrats don't have a majority in the committee, they couldn't have set a time certain.

Under the rules and precedents of the committee, then, they had to let Republicans talk, and if it took more than one markup, so be it. The Democrats did this talkathon when I was chairman. During our second markup of 2017, in order to delay Senator Sessions' nomination to be Attorney General, Democrats filibustered in the Judiciary Committee. When it happened, I didn't interrupt anyone or break any rules. I simply continued the markup the next day, checking to see who would want to be recognized and for how long.

The fact is that the Democrats frequently used these filibuster tactics against us over the past 4 years. We simply dealt with them from a position of confidence in the rules and precedents of our committee. Sometimes being chairman and moving nominees takes hard work, but we did the job we needed to do.

That is not what happened in the discussion of Gupta. Instead, my colleague from Arkansas was interrupted and the roll was called while he was still speaking.

This was not the power of the majority being used. It was the power of the chairman. What is the point of having rules if you can just ignore them—just ignore them when you find yourself dealing with an unfamiliar situation.

So I don't think the even vote—the tie vote—in committee even properly happened. As far as I am concerned, Senator COTTON had the floor. That rollcall vote was illegitimate under committee rules, and so the one that we are going to have in the Senate this afternoon is just as illegitimate.

And why did the Chairman scrap the committee rules for this nominee? This isn't a Supreme Court nomination. The nominee is a sub-Cabinet official at the Justice Department. So I have to wonder why. I think it is because the Democrats know how really powerful she will be in the Justice Department.

As Judge Garland told us during his hearing, he didn't pick Ms. Gupta. He only got to know her after they were both picked. That is quite a position for a subordinate to be in.

The late Congressman Dingell famously said this—and I will clean it up a bit: "You let me write the precedent, and I'll [beat] . . . you every time."

The Judiciary Committee has done him one better: Now there is no procedure.

If the rules are not respected, the Senate is an institution that loses every time.

I urge my colleagues to vote no and protect the traditions of the body.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I don't know that there is another Republican Senator that I have worked with as much and as effectively and with as much pleasure as Senator CHUCK GRASSLEY of Iowa—and I mean it. We have done some good things together.

We sometimes started off in opposing positions and tried to find some common ground. The First Step Act was a good illustration of that, but it is not the only demonstration, and I trust that there will be more. I am sorry we disagree today.

Two points I will make. Rule 4, as described by Senator GRASSLEY, is virtually, as I mentioned earlier, a doomsday filibuster. There is just no way out of it, particularly with an evenly divided committee. I am not the first to discover that as chairman.

I will make as part of the RECORD, and I am going to share with my colleague from Iowa, the four or five instances when previous Republican chairs of the committee did exactly what I did with this nomination and said: We are moving forward; we are not going to pay attention to rule 4.

Senator GRAHAM, Senator GRASSLEY, and others have done just exactly that in the past. So I think we adopted that as a rule because it was already in the rules, and we were evenly tied in committee. But it sure ties the hands of a chairman or anyone who is trying to accomplish anything if there is one person who just stands and objects and objects and objects. It is a very difficult situation.

The second thing I will mention is—I am going to make this a part of the RECORD, and I don't have it at hand as I stand here—the quote from Merrick Garland in his nomination hearing when someone raised the question about Vanita Gupta and Kristen Clarke, another nominee working her way through the committee. Merrick Garland may not have known either one of them personally beforehand. He could have, but I am not sure. But he made it abundantly clear that this is the team he wanted to manage the Department of Justice—no ifs, ands, or buts about it. He totally committed and believed that each of them brought a perspective in the law and by their own legal experience valuable to him and the Department of Justice and to the Nation. So I don't think there is any question that he is committed to Vanita Gupta, as he should be.

I will yield back at this point.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am sorry that I missed the incredibly thoughtful comments of the Democratic whip, who I think spoke on the topic—one of the topics—that I am going to speak about.

I think I have 10 minutes. Is that right?

OK. Thank you.

The PRESIDING OFFICER. Clarification: The Senator may use whatever time he needs to.

Mr. WARNER. I thank the Presiding Officer and thank the—I want to thank the brilliant ruling of the Parliamentarian on that subject.

Mr. DURBIN. Excuse me. If I can have a clarification. As I understand it, we are in measured time, 2 hours to a side. Any speakers on our side will be taken from that 2-hour total.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Thank you very much.

NOMINATION OF VANITA GUPTA

Mr. WARNER. Mr. President, I want to touch on two critically important subjects that the Senate is considering today. First, I want to rise in support of Vanita Gupta, President Biden's nominee to serve as the Associate Attorney General, the third highest ranking position in our Justice Department.

I think my good friend, the Senator from Illinois, has already spoken about Ms. Gupta. I want to make a personal note. First, that Vanita is a fellow Virginian. I am proud to say that she and her husband, Chinh Le, are raising their two sons in the Commonwealth. They live in Arlington.

Ms. Gupta is also an outstanding public servant. She served from 2014 to 2017 as the Principal Deputy Assistant Attorney General in the Civil Rights Division at DOJ. She led the Division, as the Acting Assistant Attorney General, until 2015.

Since 2017, she has led one of the country's preeminent civil rights organizations—the Leadership Conference for Civil and Human Rights. This means that, if confirmed, Ms. Gupta will be the first civil rights leader in any of the top three positions at Justice.

The sheer depth and breadth of Ms. Gupta's legal and professional experience makes her an outstanding selection to serve as the Associate Attorney General. Perhaps that is why Ms. Gupta's supporters span the political spectrum.

My understanding is that my friend, the Senator from Illinois, has already pointed out some of this broad-based bipartisan support. Let me elaborate on some of that support. Grover Norquist calls her an "honest broker" in his endorsement letter.

Let me just state for the record that I have had interactions with Grover Norquist since before I was Governor, over 20 years, and Grover Norquist has never called me anything close to as nice as he called Vanita Gupta as an "honest broker."

Mark Holden, the former general counsel of Koch Industries, writes: "Ms. Gupta is an exceptional lawyer, and among the most talented lawyers I have worked with in my career."

Ms. Gupta has spent years and years collaborating with people from across the spectrum to promote a more fair and equal justice system.

And let me note for the record, as well, that I have not always agreed with Ms. Gupta. I was very involved in